

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 23, 1865.

Read twice and referred to the Committee on Public Lands.

FEBRUARY 23, 1865.

Reported by Mr. HARLAN with an amendment, viz: Strike out all of the original bill, and in lieu thereof insert what follows printed in *italics*.

AN ACT

[For the relief of the occupants of the lands of the ex-mission of San Jose, in the State of California.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That every person who has the possession rightfully as
4 against all others except the United States, or, being out of
5 possession, is, as against all others except as aforesaid, en-
6 titled to the possession of any portion of the tract of land
7 situate in the county of Alameda, State of California, known
8 as the lands of the ex-mission of San Jose, as included in
9 the map and survey thereof, made October, eighteen hundred
10 and sixty-four, by E. H. Dyer, deputy United States surveyor,
11 shall have the right, and the right is hereby granted to each
12 and every such person, to enter and purchase of the United

13 States, at the sum or price of one dollar and twenty-five cents
14 per acre, such portion of said tract so rightfully possessed by
15 him, her, or them, or to which he, she, or they may so have
16 such right of possession, whether such person claim the same
17 by conveyance from or under Andres Pico and Juan B.
18 Alvarado, or either of them, or by possession only: *Provided,*
19 *however,* That any person entitled under this act to a parcel
20 of less than eight acres shall in all such cases pay ten dollars
21 for the same.

1 SEC. 2. *And be it further enacted,* That every person
2 claiming any benefit under this act shall, within one year
3 from the passage thereof, present to the register and receiver
4 of the United States land office at San Francisco a survey or
5 plat of the portion of said tract claimed by him, her, or them,
6 and which shall exhibit the quarter section or sections, or
7 parts thereof, included in said plat, made by or under the
8 direction of the United States surveyor general for California,
9 and therewith a written statement setting forth the right of
10 such claimant to enter and purchase such portion under the
11 provisions of this act, and whether the said claimant has ac-
12 quired the alleged title of said Pico and Alvarado, or either
• 13 of them thereto, or holds by possession only; and thereupon
14 such register and receiver shall, under such rules as may be
15 prescribed by the Commissioner of the General Land Office,
16 proceed and take, hear, and examine the evidence which may

17 be offered in support of or against such claim, and, upon the
 18 proofs being closed, shall determine upon and decide the
 19 same: *Provided*, That no decision of said register and re-
 20 ceiver shall be final until approved by the Commissioner of
 21 the General Land Office.

1 SEC. 3. *And be it further enacted*, That the claimant
 2 in whose favor final decision has been made, upon paying to
 3 the receiver of the land office at San Francisco for the land
 4 embraced in such final decision the sum therefor prescribed in
 5 the first section of this act, shall be entitled to a patent for
 6 such land from the United States, conveying all the interest
 7 of the United States therein to such claimant.

1 SEC. 4. *And be it further enacted*, That upon all pro-
 2 ceedings under this act being closed, and upon the appeal,
 3 taken to the Supreme Court of the United States by E. L.
 4 Beard and others, claimants of said lands against the United
 5 States, being dismissed, or the decree appealed from affirmed,
 6 the surveyor general of the United States for California shall
 7 cause the lines of the public surveys to be extended over all
 8 portions of said land which shall not have been disposed of
 9 under the provisions hereof, and thereafter the same shall be
 10 disposed of as in the case of other public lands.]

Passed the House of Representatives February 22, 1865.

Attest:

EDWARD McPHERSON, *Clerk*.

To provide for the sale of rejected private land claims.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 *That loyal citizens of the United States, and persons who*
 4 *have declared their intention to become such according to the*
 5 *naturalization laws of the United States, being heads of*
 6 *families, and persons who have been honorably discharged*
 7 *from the military and naval service of the United States, who,*
 8 *at the time of the final rejection of any private land claim in*
 9 *any State or Territory acquired from Mexico, may be in the*
 10 *actual and peaceable possession and occupancy of any part*
 11 *thereof, under color of title derived from Mexico or from the*
 12 *United States, and who have improved and cultivated and*
 13 *may reside on the same, as provided by the pre-emption laws*
 14 *of the United States, shall each be permitted, within three*
 15 *months after the approved plats of the survey thereof may*
 16 *be filed at the proper land office, to enter at said office a quan-*
 17 *tity not exceeding one hundred and sixty acres of said land,*
 18 *not being mineral, at one dollar and twenty-five cents per acre,*
 19 *to be selected according to lines of approved survey, so as to*
 20 *include as far as practicable the residence and other improve-*
 21 *ments.*

1 SEC. 2. *And be it further enacted, That in any case*
 2 *where more than one person as aforesaid shall claim the same*
 3 *tract of land, the case shall be heard and decided, as provided*

4 by law in pre-emption cases, in favor of the party who first
5 occupied, improved, resided upon, and cultivated said premises
6 as aforesaid, unless he may have notoriously abandoned the
7 same, or part thereof, to which there may be an adverse claim,
8 for a period of time not less than six months. And if two or
9 more of such persons shall have thus settled upon the same
10 tract of land at the same time, and continuously occupied, im-
11 proved, resided upon, and cultivated the same as aforesaid,
12 each shall be entitled to enter as aforesaid his just and equita-
13 ble proportion of said land, not exceeding one hundred and
14 sixty acres, for each claimant.

1 SEC. 3. And be it further enacted, That if any such per-
2 son shall have settled, resided upon, occupied, and improved a
3 tract of said land greater than one hundred and sixty acres,
4 to which there may be, at the date of the final rejection of
5 said private land claim, or at the date of the passage of this
6 act, no existing valid adverse claim, he shall be permitted to
7 enter, as aforesaid, one hundred and sixty acres thereof, con-
8 forming to the subdivisions of the approved survey thereof,
9 as aforesaid; and the Commissioner of the General Land
10 Office shall cause the residue of said premises to be appraised
11 by the officers of the proper land office, in lots not exceeding
12 one hundred and sixty acres, making a separate and distinct
13 appraisement of each lot of land, separate from the improve-
14 ments, and a separate and distinct appraisement of the im-

15 *provements then existing on each of said lots; and, after*
16 *due and sufficient notice, shall offer each of said lots of land,*
17 *separate from the improvements thereon, for sale, at public*
18 *outcry, to the highest bidder, as public lands are now offered*
19 *under existing laws, at a price not less than the appraised*
20 *value of said land, nor less than one dollar and twenty-five*
21 *cents per acre. And if the same shall be purchased by any*
22 *other person than the bona fide owner of said improvements,*
23 *he shall pay, before receiving his certificate of purchase, to the*
24 *receiver of the proper land office, as aforesaid, in addition to*
25 *the amount for which said land was bid off, the appraised*
26 *value of the improvements on the said land thus purchased;*
27 *which said sum of money, being the appraised value of said*
28 *improvements, shall be paid by the said receiver to the bona*
29 *fide owner of the improvements, and take his receipt therefor.*
30 *And if any of said land shall remain unsold at the said public*
31 *sale, it shall become subject to sale at private entry at the ap-*
32 *praised value of the land, being not less than one dollar and*
33 *twenty-five cents an acre, as other public lands: Provided,*
34 *That each lot of land situated in and being a part of any*
35 *such private land claim shall not be sold for less than ten*
36 *dollars.*

1 SEC. 4. *And be it further enacted, That when, in the*
2 *opinion of the Commissioner of the General Land Office, sub-*
3 *stantial justice to settlers may require it, he may cause any*

4 *such rejected private land claim to be surveyed so as to con-*
5 *form as far as practicable to lines established by said settlers*
6 *on said rejected claim, adding the cost of said special survey*
7 *to the price of said lots of lands.*

1 SEC. 5. *And be it further enacted, That the Commis-*
2 *sioner of the General Land Office shall make all needful rules*
3 *and regulations necessary to carry this act into effect, not*
4 *inconsistent with the laws of the United States.*